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PATENT  
HER0033

1651  
#8  
JMSY  
8-10-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of )  
Roussel et al. ) Group Art Unit: 1651  
Serial No.: 09/331,554 )  
Filed: August 23, 1999 )  
Title: ABSORBABLE COMPOSITION CONTAINING )  
PROPIONIC BACTERIA CAPABLE OF RELEASING )  
NITRIC OXIDE IN THE HUMAN OR ANIMAL )  
ALIMENTARY CANAL ) Examiner: V. Afremova  
)

LETTER

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Applicants submit the attached Declaration of Professor Alain Ourry, which has been prepared in accordance with 37 C.F.R. § 1.132, and respectfully request its entry into the present application.

This evidence traverses the rejections of the pending claims under 35 U.S.C. §§ 102(b) and 103(a); pursuant to the Generally Applicable Criteria of MPEP 716.01, Applicants request that it be considered by the Examiner, and that, pursuant to MPEP 716.01(d), the patentability of the claimed inventions be reconsidered by the Examiner.

Applicants submit that the attached Declaration is being timely submitted pursuant to 37 C.F.R. § 1.195, and that the attached Declaration was not earlier presented because the disposition of the above application in view of the Amendment After Final Rejection filed May 7, 2001, was not made known to Applicants until July 12, 2001, when the Advisory Action dated July 9, 2001, responsive to the May 7 Amendment, was received. Applicants fully expected that the pending claims, as amended in the May 7 Amendment, would be allowed, and prior to receipt of the Advisory Action, had no reason to earlier submit the attached Declaration.

In the event Applicants have overlooked the need for an extension of time, an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby

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conditionally petition therefor and authorize that any charges be made to Deposit Account  
No. 02-0385, BAKER & DANIELS.

Respectfully Submitted,



Michael D. Smith  
Registration No. 40,181

Attorney for Applicant

MDS/nw

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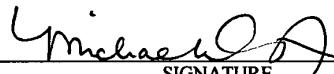
Enc. Declaration  
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MICHAEL D. SMITH, NO. 40,181

NAME OF REGISTERED REPRESENTATIVE



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SIGNATURE  
July 31, 2001

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DATE